

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**THE UNITED STATES DEPARTMENT OF AGRICULTURE, ANIMAL AND PLANT  
HEALTH INSPECTION SERVICE AND THE SCOTTS COMPANY LLC**

This Memorandum of Understanding ("MOU") is hereby entered into between the United States Department of Agriculture, Animal and Plant Health Inspection Service ("APHIS") Biotechnology Regulatory Services (BRS) and The Scotts Company LLC ("Scotts").

WHEREAS, Scotts and Monsanto submitted a petition for non-regulated status (the deregulation) of glyphosate tolerant creeping bentgrass (GTCB) that has been pending for the last 12 years;

WHEREAS, Scotts is acknowledging and agreeing that GTCB will not be offered for commercial sale or distribution in any other manner by Scotts or any other entity before 2023;

WHEREAS, Scotts intends to withdraw its current GTCB petition and resubmit a revised GTCB petition that more accurately documents the current science related to GTCB and its behavior in the environment. This revised GTCB petition will also include Scotts' revised intentions regarding the sale or other distribution of GTCB; and

WHEREAS, APHIS has established procedures and methodologies for evaluating petitions for non-regulated status.

NOW THEREFORE, the parties agree as follows:

1. As with any petitioner for non-regulated status, Scotts may submit an environmental report (ER) related to its revised GTCB petition to provide data and other information to APHIS.
2. At the request of Scotts, and to assist in the preparation of its ER, prior to withdrawal of the current GTCB petition, APHIS will provide Scotts with guidance on the information and data that would be helpful to the agency in determining the scope of its analysis for the revised GTCB petition.
3. APHIS will evaluate the revised GTCB petition in accordance with its established protocols and methodologies, consistent with current practices, including issues related to Endangered Species Act and National Environmental Policy Act compliance.
4. As with any petition for non-regulated status, APHIS will review the revised GTCB petition in a timely manner consistent with its regulations, established procedures, methodologies, and protocols. APHIS will inform Scotts of any anticipated delays or issues that may arise during the course of its review of the revised petition.
5. Scotts designates Mr. David Swihart as its authorized representative who shall be responsible for collaboratively administering the activities conducted under this MOU.

6. APHIS designates Mr. Michael C. Gregoire as its Authorized Departmental Officer's Designated Representative who shall be responsible for collaboratively administering the activities conducted under this MOU.
7. Signature of this MOU does not constitute a financial obligation on the part of APHIS. Each signatory party is to use and manage its own funds in carrying out the purpose of this MOU. Transfers of funds or items of value are not authorized under this MOU.
8. This MOU and any continuation thereof shall be contingent upon the availability of funds appropriated by the Congress of the United States. It is understood and agreed that any monies allocated for purposes covered by this MOU shall be expended in accordance with its terms and the manner prescribed by the fiscal regulations and/or administrative policies of the party making the funds available. If fiscal resources are to transfer, a separate agreement must be developed by the parties.
9. By entering into this MOU, the undersigned attests that Scotts has not been convicted of a felony criminal violation under Federal or State law in the 24 months preceding the date of signature, nor has any officer or, to the best of Scotts' knowledge, any current agent of Scotts been convicted of a felony criminal violation under Federal or State law in the 24 months preceding the date of signature.
10. By entering into this MOU, the undersigned attests that Scotts does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability..
11. Under 41 U.S.C. 22, no member of, or delegate to, Congress shall be admitted to any share or part of the MOU or to any benefit to arise there from.
12. This MOU will become effective upon date of final signature and will continue in effect for 8 years. It may be amended at any time by mutual agreement of the parties in writing. It may be terminated at any time by mutual agreement of the parties in writing, or by either party with sixty (60) days notice in writing to the other party.

AGREED TO:

Michael C. Gregoire Dated: Sep 2, 2015

Michael C. Gregoire  
Associate Administrator  
Animal and Plant Health Inspection Service

Ivan C. Smith Dated: Sept. 2, 2015

Ivan C. Smith  
Executive Vice President, General Counsel  
The Scotts Company LLC